

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA

PR ACQUISITION LLC	:	CIVIL ACTION
	:	NO. 03-3731
Plaintiff	:	
	:	
v.	:	
	:	
BMW OF NORTH AMERICA, LLC	:	
	:	
Defendant	:	

**PRETRIAL MEMORANDUM OF PLAINTIFF PR ACQUISITION LLC**

**I. INTRODUCTION**

Plaintiff PR Acquisition LLC (“PRA”) entered into an Asset Purchase Agreement (the “Agreement”) pursuant to which PRA agreed to purchase, inter alia, BMW passenger car, light truck (SAV) and MINI dealerships (the “Dealerships”) located in Bala Cynwyd, Pennsylvania from its owner, Don Rosen Imports, Inc. (“Rosen”). Pursuant to the Agreement, PRA agreed to pay in excess of \$25,000,000 for the assets referenced in the Agreement.

Prior to the closing called for by the Agreement, Defendant BMW of North America, LLC (“BMW”) notified representatives of PRA that it was preventing the sale of the Dealerships to PRA by exercising a “right of first refusal” to purchase the Dealerships. BMW’s exercise of its right of first refusal prevented the parties to the Agreement from performing the terms of the Agreement including, inter alia, acquiring the Dealerships.

BMW exercised its right of first refusal for the purchase of the Dealerships pursuant to 63 P.S. § 818.16. That statute provides a mechanism for automobile manufacturers to exercise “a right of first refusal” and to purchase dealerships that would otherwise be sold to third parties. The statute also requires manufacturers who exercise that right to pay “frustrated” third party buyers such as PRA their expenses “in negotiating and implementing” the Agreement.

The only issue is the amount of money BMW owes PRA as a result of its exercise of its right of first refusal. As will be discussed below, PRA incurred expenses in the amount of \$463,655 in negotiating and implementing the Agreement. Those expenses were reasonable and this is the amount that BMW must pay PRA. Attached hereto as Exhibit “A” is a list of the expenses incurred by PRA in negotiating and implementing the Agreement.<sup>1</sup>

## **II. JURISDICTION**

Defendant BMW removed this case pursuant to 28 U.S.C. § 1441 from the Court of Common Pleas of Chester County, Pennsylvania. Jurisdiction was based upon the diversity of citizenship of the parties pursuant to 28 U.S.C. § 1332.

## **III. BACKGROUND/CLAIMS**

### **A. PRA Retains Professionals**

PRA was established to acquire the assets referenced in the Agreement including the Dealerships. PRA has never had any employees. Accordingly, it retained various professionals to negotiate and implement the Agreement.

---

<sup>1</sup> After the filing of the Complaint in this matter, Pennmark Automotive Enterprises agreed not to pursue that portion of its claim for the work performed by Robert DiStanislao in the amount of \$25,877.

In addition to attorneys and accounting firms, PRA also retained professionals with expertise and experience in acquiring and running high-end automotive dealerships. Specifically, it retained Pennmark Automotive Enterprises, Inc. ("Enterprises") and Donald L. Besecker, Jr. and George E. Marucci, Jr. to assist PRA in the negotiation and implementation of the Agreement. Enterprises' employees and Messrs. Besecker and Marucci (collectively the "Automotive Professionals") have as much or more experience and expertise in the acquisition and running of high-end automotive dealerships than any other group in the region.

The terms of the retention provided that, consistent with Enterprises' prior practice, in the event that the Agreement was consummated, Enterprises would be compensated from revenues from the Dealerships after their acquisition. Since BMW prevented the consummation of the Agreement, PRA and the Automotive Professionals were forced to provide for different terms for the payment of these Professionals. They agreed that in the event that PRA did not consummate the Agreement, the Automotive Professionals would still be paid for their services. The amount of the payment would be based upon the amount of time an individual spent on the deal and would be calculated by multiplying the percentage of time spent on the deal with the amount of the value of that individual's annual compensation. For example, if an individual spent half of his working time during the relevant time period negotiating and implementing the Agreement, PRA would pay half of that individual's compensation for that period.

**B. PRA Negotiates And Implements The Agreement**

From October 7, 2002 through February 10, 2003, PRA, through its professionals, engaged in intensive negotiations which ultimately led to a deal in excess of \$25 million

embodied in the Agreement. As is typical in these deals, a tremendous amount of due diligence was necessary. To perform this due diligence, PRA relied upon lawyers, accountants, appraisers and environmental consultants. It also relied upon the Automotive Professionals.

PRA will establish the reasonableness of the expenses it incurred. PRA, as the buyer, needed to understand every aspect of the assets it was acquiring. This involved reviewing all of Rosen's financial information. They met with the Dealerships' employees to determine their job responsibilities and whether they should continue after the sale. They also reviewed and analyzed a significant amount of real estate related information. PRA's professionals also performed substantial work to obtain financing for the deal. They also dealt with BMW regarding a variety of issues. These are only a few of the categories of information assembled and analyzed and are "reasonable" as part of any deal such as the Agreement.

Each of the Automotive Professionals played a vital role for PRA. For example, one of the employees of Enterprises who worked on negotiating and implementing the Agreement was Ray Mincarelli. Mr. Mincarelli is Vice President for Acquisitions for Enterprises. His job is to provide services to entities for the acquisition of new dealerships. Ninety percent of his time during the relevant time period was spent negotiating and implementing the Agreement. His annual compensation totaled \$114,750. After prorating that compensation with the number of working days in the relevant time period and multiplying that number by 90%, the amount owed by PRA to Enterprises for his services is \$35,082.

Another Enterprises employee who worked on the Agreement for PRA is Ernie Volpe. Mr. Volpe, who is an accountant, also has unique experience and expertise in the acquisition of high end automotive dealerships. He spent approximately fifty percent of his time during the relevant time period working on negotiating and implementing the Agreement. This included necessary financial due diligence including analyzing a tremendous amount of financial information regarding the Dealerships, as well as assisting in the preparation of dealer applications which require detailed financial information.

Messrs. Besecker and Marucci are well known in the automotive community for their expertise with high-end automotive dealerships. The deal would not have happened without their involvement and assistance. They spent fifty percent and thirty percent respectively of their time during the relevant time period working on this deal.

**C. BMW Exercises Its Right Of First Refusal**

BMW knew for some time that PRA was acquiring the Dealerships. Ultimately, at the eleventh hour, it exercised its right of first refusal on February 10, 2003. Pursuant to 63 P.S. § 818.16, BMW had the right to request an accounting for PRA's expenses prior to the exercise of the right of first refusal. BMW chose not to make that request until after it exercised its right of first refusal. It should not claim surprise that there were expenses incurred as part of this completed Agreement.

**D. BMW Must Pay PRA's Expenses In Negotiating And Implementing The Agreement**

---

63 P.S. § 816.6 provides that a "a manufacturer or distributor shall be permitted to enact a right of first refusal" to acquire a dealership's assets if, inter alia:

**(4) The manufacturer or distributor agrees to pay the reasonable expenses, including reasonable attorney fees which do not exceed the usual, customary and reasonable fees charged for similar work done for other clients, incurred by the proposed new owner and transferee prior to the manufacturer's or distributor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed change of all or substantially all ownership or transfer of all or substantially all dealership assets.** Notwithstanding the foregoing, no payment of such expenses and attorney fees shall be required if the dealer has not submitted or caused to be submitted an accounting of those expenses within 20 days of the dealer's receipt of the manufacturer's or distributor's written request for such an accounting. Such an accounting may be requested by a manufacturer or distributor before exercising its right of first refusal.

63 P.S. § 818.16(4) (emphasis added). Accordingly, the statute requires, and BMW acknowledges, that BMW must pay PRA for its reasonable expenses in negotiating and implementing the Agreement.

The intent of this statute is clear. It permits a manufacturer such as BMW to have some control over the sale of its dealerships. However, the statute makes sure that otherwise worthy potential buyers are not harmed. Therefore, if a manufacturer chooses to exercise a right of first refusal, it must make the innocent buyer whole and pay its expenses. That is precisely what PRA is seeking in this case.

**E. The Expenses Incurred By PRA Are Reasonable**

The evidence will show that the expenses incurred by PRA are reasonable. That evidence will include fact and expert witnesses. One of the witnesses, John Oyler, Esquire, will be both a fact and expert witness. He is uniquely qualified to address these issues.

Mr. Oyler specializes in the purchase and sale of automotive dealerships. During his 29 years of law practice he has worked on more than 500 transactions involving the purchase or sale of new motor vehicle dealerships. As general counsel to the Pennsylvania Automotive Association, he was involved in negotiation and drafting the amendments to the 63 P.S. § 816.6.

Mr. Oyler also represented the seller, Rosen, in the underlying transaction. Accordingly, he has firsthand knowledge regarding the complexity of the deal and what was needed to negotiate and implement the Agreement.

Pursuant to the dealership agreements Rosen had with BMW, Rosen was entitled to its expenses regarding the Agreement as a result of BMW's exercise of the right of first refusal. BMW paid Rosen \$148,134.50 for its legal and accounting expenses alone regarding the Agreement without any backup accounting. As will be demonstrated at trial, the seller – Rosen – needed to perform far less work than the buyer – PRA - due to necessary due diligence and other issues which are performed by sophisticated buyers. Furthermore, in this case, the “scrivener” was PRA and not the seller. Accordingly, the amount of expenses that would be “reasonable” in this matter would be far in excess of the amount paid in excess of Rosen.

#### **IV. POTENTIAL WITNESSES**

1. Donald L. Besecker, Jr.  
1260 West Chester Pike  
West Chester, PA 19382
2. George E. Marucci, Jr.  
1260 West Chester Pike  
West Chester, PA 19382

3. Ernie Volpe  
1260 West Chester Pike  
West Chester, PA 19382
4. Robert DiStanislao  
1260 West Chester Pike  
West Chester, PA 19382
5. Mark Rhodes, Esquire  
1260 West Chester Pike  
West Chester, PA 19382
6. Ray Mincarelli  
1260 West Chester Pike  
West Chester, PA 19382
7. Julie Mayne  
1260 West Chester Pike  
West Chester, PA 19382
8. Gloria Russo  
1260 West Chester Pike  
West Chester, PA 19382
9. Michael G. Menkowitz, Esquire  
2000 Market Street, 10<sup>th</sup> Floor  
Philadelphia, PA 19103
10. Craig L. Finger, Esquire  
Fox Rothschild LLP  
2000 Market Street, 10<sup>th</sup> Floor  
Philadelphia, PA 19103
11. John S. Oyler, Esquire  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166
12. Gene Donnelly, Vice President, Eastern Region  
BMW of North America, LLC  
BMW Plaza  
Montvale, NJ 07645
13. Howard S. Harris, Esquire  
BMW of North America, LLC  
BMW Plaza  
Montvale, NJ 07645



14. George Baldwin  
BMW of North America, LLC  
BMW Plaza  
Montvale, NJ 07645

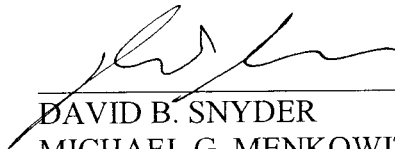
**V. POTENTIAL EXHIBITS**

See Exhibit List attached hereto as Exhibit "B."

**VI. ESTIMATED DAY OF TRIAL**

Plaintiff expects that the amount of time it will take to present its case is 2-3 days.

Respectfully Submitted,



DAVID B. SNYDER  
MICHAEL G. MENKOWITZ  
CRAIG A. STYER  
FOX ROTHSCHILD LLP  
2000 Market Street, Tenth Floor  
Philadelphia, PA 19103-3291  
(215) 299-2000

Attorneys for Plaintiff,  
PR Acquisition LLC

Dated: August 10, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing Pretrial Memorandum of Plaintiff PR Acquisition LLC on the following individuals via First Class mail:

Kirk A. Peterson, Esquire  
Berkowitz Stanton Brandt Williams & Shaw LLP  
4121 West 83rd Street, Suite 259  
Prairie Village, Kansas 66208

Steven Haber, Esquire  
Obermayer, Rebmann, Maxwell & Hippel, LLP  
One Penn Center, 19<sup>th</sup> Floor  
1617 JFK Boulevard  
Philadelphia, PA 19103-1895

  
\_\_\_\_\_  
DAVID B. SNYDER, ESQUIRE

Dated: August 10, 2004

**PENNMARK AUTOMOTIVE ENTERPRISES**

**COSTS RELATED TO DON ROSEN ACQUISITION**

Annual Pay	Taxes/ Benefits 35%	Total	Person	262 Daily Rate	Percentage of Time	10/7/2002 From 2/10/2003 To 89 # of workdays
85,000	29,750	114,750	Ray Micarelli	438	90%	35,082
208,178	72,862	281,040	Ernie Volpe	1,073	50%	47,734
137,211	48,024	185,235	Mark Rhodes	707	35%	22,023
750,000	262,500	1,012,500	Donald Besecker	3,865	50%	171,970
750,000	262,500	1,012,500	George Marucci	3,865	30%	103,182
225,711	78,999	304,710	Robert DiStanislao	1,163	25%	25,877
52,000	18,200	70,200	Julie Mayne	268	15%	3,577
38,500	13,475	51,975	Gloria Russo	198	15%	2,648
						<u>412,094</u>
**A* PSR tests						1,375 For interviewing potential managers
**B* Airborne Express						380
Keystone Appraisal						3,500 Ridge Pike Appraisal
Walter Satterthwaite Associates						6,850 Environmental
Goldenberg Rosenthal						9,333 Analyze accounting records
Carroll Contractors						1,000 Due diligence for Porsche/Audi buildings
Fox Rothschild						<u>55,000</u>
						<u><u>489,532</u></u>

\*\*A\* 3 management level assessment at \$355/each plus 2 non-management at \$155/each

\*\*B\* estimated 40 overnights at \$9.50 each

A-1

**EXHIBIT "A"**

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA

PR ACQUISITION, LLC : CIVIL ACTION  
Plaintiff : NO. 03-3731  
:  
vs. :  
BMW OF NORTH AMERICA, LLC :  
Defendant :

**POTENTIAL EXHIBITS  
OF PLAINTIFF PR ACQUISITION, LLC**

<b>Deposition Exhibit or Bates Stamp No.</b>	<b>Description</b>	<b>Date</b>
2.	W-2's and Payroll Records for Mark Rhodes (Pennmark) for years 2002-2003	2002-2003
3.	Organization Chart for PHG	2/1/03
4.	Operating Agreement of PR Acquisition, LLC	11/8/02
5.	Pennmark Group – Employees Earnings from 1/1/02 through 12/31/02	1/30/03
6.	Fox Rothschild Memorandum from Michael G. Menkowitz, Esquire to Ray Mincarelli	12/13/02
7.	Fox Rothschild Letter from Michael G. Menkowitz, Esquire to Mr. Gene Donnelly, V.P., (BMW of North America, LLC)	2/21/03
8.	Fox Rothschild Letter from Michael G. Menkowitz, Esquire to Howard Harris, Esquire (BMW of North America, LLC)	4/17/03
10.	W-2's and Payroll Records for Ernie Volpe (Pennmark) for years 2002-2003	2002-2003
11.	Memorandum from Ernie Volpe (Pennmark Auto Group) to File	8/27/03

<b>Deposition Exhibit or Bates Stamp No.</b>	<b>Description</b>	<b>Date</b>
12.	PR Acquisition, LLC, Don Rosen Organization, Inc. and Don Rosen Imports, Inc. Due Diligence Memo Prepared by Goldenberg Rosenthal, LLP	11/30/02
13.	ACAR Report	10/4/02
14.	E-Mail Greg Champion (Audi) to E. Volpe (Pennmark Auto Group) Re: Dealer Application Package	2/24/03
15.	Memorandum from Ray M. Mincarelli to Buddy Marucci	2/3/03
16.	Typed Note Directed to "Ray"	
17.	Handwritten Note	
18.	Financial Statement	8/31/02
19.	Financial Statement	8/31/02
20.	Actual Rosen Cash Flow Statement (2000 through YTD 2002)	
21.	PR Acquisition Profit & Loss Statement	10/21/03
22.	Income and Expense Statements (2000 – 2002)	2000-2002
23.	Profit & Loss Statements	8/31/02
24.	Automotive Industry Guidelines Productivity and Operational Guidelines	
25.	Blank Sheet with Notation	
26.	Comparison/Contrast PMAG and Project	
27.	Term Sheet	
29.	W-2's and Payroll Records for Robert DiStanislao (Pennmark) for years 2002-2003	2002-2003
30.	December 2002 Calendar Printout	12/2002

<b>Deposition Exhibit or Bates Stamp No.</b>	<b>Description</b>	<b>Date</b>
32.	W-2's and Payroll Records for Donald L. Besecker, Jr. (Pennmark) for years 2002-2003	2002-2003
33.	Checks	6/4/03
34.	Letter from Samuel C. Stoltz (Porsche Cars) to George E. Marucci and Donald L. Besecker, Jr.	12/19/02
35.	Letter from Donald L. Besecker, Jr. (Pennmark Auto Group) to Samuel C. Stoltz (Porsche Cars)	3/7/03
	Letter from Samuel C. Stoltz (Porsche Cars)	3/5/03
36.	Letter from Donald L. Besecker, Jr. (Pennmark Auto Group) to Samuel C. Stoltz (Porsche Cars)	3/7/03
37.	Letter from Gene Donnelly (BMW) to Donald L. Besecker, Jr.	2/10/03
	Letter from Gene Donnelly (BMW) to Don Rosen (Don Rosen MINI)	2/10/03
38.	Letter from Gene Donnelly (BMW) to Donald L. Besecker, Jr.	2/10/03
	Letter from Gene Donnelly (BMW) to Don Rosen (Don Rosen MINI) Re: Exercise of BMW of North America, LLC	2/10/03
39.	Letter from Gene Donnelly (BMW) to Donald L. Besecker, Jr. Re: Exercise of BMW	2/10/03
	Letter from Gene Donnelly (BMW) to Don Rosen (Don Rosen MINI)	2/10/03

<b>Deposition Exhibit or Bates Stamp No.</b>	<b>Description</b>	<b>Date</b>
40.	BMW of North America, LLC Application for BMW Center Agreement & Credit Application	1/21/03
41.	Letter from Philip L. Hinerman, Esquire to Paul White, Project Director (Satterthwaite Associates, Inc.)	12/20/02
42.	Phase I Environmental Site Assessment Re: 130-136 Montgomery Avenue, Lower Merion Twp., Montgomery County, PA	2/20/03
43.	Phase I Environmental Site Assessment Re: 214, 217, 255 Bala Avenue & 10 Union Avenue, Lower Merion Twp., Montgomery County, PA	2/20/03
44.	Phase I Environmental Site Assessment Re: 1312-1316 and 1223 Ridge Pike, Conshohocken, Montgomery County, PA	2/20/03
46.	W-2's and Payroll Records for Raymond Mincarelli (Pennmark) for years 2002-2003	2002-2003
47.	Memorandum from Ray M. Mincarelli (Pennmark Auto Group) to File	8/25/03
48.	Handwritten Note	
49.	Letter from Eugene P. Donnelly, Vice President (BMW of North America) to Raymond Mincarelli (PR Acquisition, LLC)	12/23/02
50.	Handwritten Notes	
51.	Fax Letter from Christopher J. Reiss and Paul White (Satterthwaite Associates)	1/15/03
52.	Satterthwaite Associates Invoice No. 12417	2/25/03
53.	Letter from Greg R. Champion (Audi Mgr., Dealer Franchising) to George E. Marucci, Jr., and Donald L. Besecker, Jr. (PR Acquisition, LL)	12/16/02

**Deposition  
Exhibit or  
Bates  
Stamp No.**

**Description**

**Date**

- |     |                                                                                                                                                                                     |                      |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| 54. | Letter from Harvey M. Levin, MAI, SRA, ASA<br>(Keystone Appraisal Co.) to Ray Mincarelli (Pennmark<br>Auto Group) Re: Appraisal                                                     | 12/23/02             |
| 55. | Limited Appraisal Restricted Use Report Re: 1312 and<br>1316 W. Ridge Pike, Plymouth Twp., Montgomery<br>County, PA Prepared by Keystone Appraisal Company                          | 2/6/03               |
| 56. | Defendant BMW's Subpoena Directed to George E.<br>Marucci                                                                                                                           | 1/23/04              |
| 57. | Check Register PR Acquisition LLC #400 2845 3698 –<br>12/24/02 through 5/24/04                                                                                                      | 12/24/02-<br>5/24/02 |
| 58. | E-Mail from Steve Moore to Michael Menkowitz (with<br>handwritten notes)                                                                                                            | 11/19/02             |
| 59. | Fedex Letter from Greg R. Champion (Audi Mgr., Dealer<br>Franchising) to George E. Marucci, Jr. and Donald L.<br>Besecker, Jr. (PR Acquisition)                                     | 3/11/03              |
| 60. | Letter from Ray M. Mincarelli (Pennmark Auto Group) to<br>Greg R. Champion (Audi of America, Inc.)                                                                                  | 3/14/03              |
| 61. | 2003 Monthly Charges to Stores for Management Fees                                                                                                                                  |                      |
| 62. | 2002 Monthly Charges                                                                                                                                                                |                      |
| 63. | 2003 Bonus Worksheets and Pay Plan Proposals for:<br>Robert DiStanislao, Ernie Volpe, Mark Rhodes, and Ray<br>Mincarelli                                                            |                      |
| 64. | Expert Report of Allan B. Schneirov, Esquire                                                                                                                                        | 6/22/04              |
| 65. | Expert Report of John S. Oyler, Esquire                                                                                                                                             | 5/28/04              |
| 66. | Asset Purchase Agreement Between Romill Associates,<br>L.P., Don Rosen Organization, Inc., Don Rosen Imports,<br>Inc., Donald M. Rosen, Charles J. Miller and PR<br>Acquisition LLC | 12/11/02             |



<b>Deposition Exhibit or Bates Stamp No.</b>	<b>Description</b>	<b>Date</b>
67.	Letter from John S. Oyler (McNees Wallace) to Howard S. Harris, Esquire (BMW of North America)	2/28/03
68.	Letter from Donald M. Rosen (Don Rosen Imports) to Eugene P. Donnelly (BMW of North America)	10/17/03
69.	Letter from Jerry G. Vigdor, CPA (Margolis & Company) to Don Rosen (Don Rosen Org.)	5/22/03
	Invoice from Margolis & Company to Don Rosen	3/17/03
	Invoice from Margolis & Company to Don Rosen	5/21/03
	Invoice from Margois & Company to Don Rosen	4/14/03
	Statement for Services Rendered from McNees Wallace to Don Rosen for	5/19/03
	Master Work in Progress Report – Unbilled Time and Disbursement Detail	5/27/03
70.	Executed Letter Agreement Between Don Rosen Organization, Inc., Don Rosen Imports, Inc., Romill Associates, L.P. and PR Acquisition LLC	4/4/03
71.	Expert Report and Disclosure (with attachments 1 through 5) of Geoffrey H. Osborne, CPA	6/22/04
(Sent to Counsel for Defendant 3/17/04)	Fox Rothschild LLP Detailed Billing Report	
PR001545- PR001573	Audi Dealer Agreement Standard Provisions	
PR001574- PR001606	Audi Dealer Operating Standards	
PR001700- PR001744	Porsche Sales and Service Agreement	

<b>Deposition Exhibit or Bates Stamp No.</b>	<b>Description</b>	<b>Date</b>
PR001760- PR001860	ACAR Reports	
PR002755- PR002781	Agreement between Don Rosen, BMW, and Teamsters' Local Union No. 830	2/28/03
PR001054- PR001061	Universal Underwriters' Insurance Company Insurance Document	
PR001062- PR001079	Schedule of Insurance for Don Rosen Imports, Inc. & Romill Associates, L.P.	4/1/02
PR001080- PR001102	Schedule of Insurance for Don Rosen Organization, Inc.	4/1/02
PR001103- PR001124	Universal Underwriters' Insurance Company Document	
PR001125- PR001126	Universal Underwriters' Group Risk Management Services	
PR001127- PR001142	Universal Underwriters' Insurance Company Document	
PR000995- PR001032	Provident Mutual Documents	5/31/02
PR001033- PR001053	Adoption Agreement for Provident Mutual Life Insurance Company of Philadelphia	
PR003125- PR003175	Draft No. 5 of Asset Purchase Agreement	
BMWNA01207	Letter from John S. Oyler to Howard S. Harris	2/28/03
PR008000- PR008017	PR Acquisition LLC Checks	
PR001298- PR001301	Memo to Mark S. Rhodes, Esquire from David Bravo	1/22/03
BMWNA00125	Memo to File from George Baldwin	1/21/03

<b>Deposition Exhibit or Bates Stamp No.</b>	<b>Description</b>	<b>Date</b>
BMWNA00130- BMWNA00131	Memo to File from George Baldwin	1/15/03
BMWNA00171	Letter from Robert E. Cook to George Marucci, Jr. and Donald L. Besecker, Jr.	2/10/03
BMWNA00172	Memo to file George Baldwin	1/24/03
BMWNA00364- BMWNA00365	Letter from Gene Donnelly to Don Rosen	2/10/03
BMWNA00368- BMWNA00369	Letter from Gene Donnelly to Don Rosen	2/10/03
BMWNA00371- BMWNA00372	Letter from Gene Donnelly to Don Rosen	2/10/03
BMWNA00380- BMWNA00383	Letter Agreement between Don Rosen BMW and PR Acquisition LLC	4/4/03
BMWNA00069- BMWNA00083	Letter from Robert E. Cook to Don Rosen MINI	5/14/03
BMWNA00085- BMWNA00099	Letter from Robert E. Cook to Don Rosen BMW	4/21/03
BMWNA00100- BMWNA00122	Letter from Robert E. Cook to Devon Hill Motors, Inc.	4/21/03
PR002557- PR002725	Don Rosen Dealership Financial Information	
PR002239- PR002462	Don Rosen Dealership Financial Information	
PR004178- PR004237	Letter from Samuel C. Stoltz to George E. Marucci, Jr. and Donald L. Besecker, Jr. and related documentation	12/19/02
PR006530- PR006566	Letter from Donald L. Besecker, Jr. to Timothy Hefernan and related documents	1/7/03

<b>Deposition Exhibit or Bates Stamp No.</b>	<b>Description</b>	<b>Date</b>
PR004441- PR004449	Fax from Donald L. Besecker, Jr. to Timothy Hefernan and enclosure	1/7/03
PR001628- PR001699	MINI Dealer Information	
PR002463- PR002527	BMW Financial Services Information	
PR002834- PR002840	Letter from Stephen A. Moore to Michael Menkowitz and accompanying documents	2/6/03
PR003098- PR003124	Letter from Michael J. Drayo to Michael Menkowitz and accompanying documents	11/5/02
PR001607- PR001627	BMW of North America, Inc. Car Center Agreement	
PR002529- PR002555	BMW Financial Services Floorplan Proposal	2/6/03
BMWNA00444- BMWNA00448	Internal BMW Documents	
BMWNA00441	E-Mail from Paul Pedenski to Robert Cook	2/10/03
PR006567- PR006606	Application Procedures, Agreement and Acceptance Documents	1/21/03
PR002181- PR002196	Operation Facility Planning Document	8/02
BMWNA00752	Projections	
BMWNA00459- BMWNA00466	Application for BMW Center Agreement and Credit Application (Donald L. Besecker, Jr.)	
BMWNA00467- BMWNA00474	Application for BMW Center Agreement and Credit Application (George Marucci, Jr.)	
PR006827- PR006864	Letter from Donald L. Besecker, Jr. to William Kehoe and accompanying documents	1/21/03

<b>Deposition Exhibit or Bates Stamp No.</b>	<b>Description</b>	<b>Date</b>
BMWNA00392- BMWNA00406	Letter from Donald L. Besecker, Jr. to William Kehoe and accompanying documents	1/21/03
PR007137- PR007163	BWM Financial Services Floor Plan Proposal	1/16/03
PR006886- PR006942	Letter from William Kehoe to PR Acquisition LLC and accompanying documents	1/9/03
PR000899- PR000994	Letter from Arnold M. Katz to Don Brown and accompanying documents	6/11/02
PR000888- PR000898	Documents relating to Comcast, Philadelphia Eagles and Storage U.S.A.	
PR002952- PR002958	Don Rosen Lease Abstracts	
PR002841- PR002847	Don Rosen Organization List of Managers and Key Personnel	
PR001143- PR001145	Don Rosen Company Employee Information	
PR001146- PR001168	Don Rosen Organization Employee Orientation Manual	
PR001495- PR001515	Amended and Restated Lease Agreement	
PR001516- PR001517	Amendment to Lease	5/19/99
PR001467- PR001478	Lease Agreement	
PR001479- PR001482	Rider	
PR001450- PR001466	Lease Agreement	7/22/02

<b>Deposition Exhibit or Bates Stamp No.</b>	<b>Description</b>	<b>Date</b>
PR001446- PR001449	Lease Addendum	
Attached to Response of Plaintiff, PR Acquisition, LLC to Defendant's First Requests for Admissions	Pennmark Entities Ownership Structure Chart	
BMWNA01205- BMWNA01206	Letter to John Oyler from Howard Harris	4/7/03
BMWNA01207- BMWNA01208	Letter from Donald Brown to Eugene Donnelly	4/17/03
BMWNA01205- BMWNA01206 [Note: There are 2 documents with these Bates Nos.]	Letter from Donald Rosen to Eugene Donnelly	5/7/03
BMWNA01195	Letter from Donald Rosen to Eugene Donnelly	8/5/03
BMWNA01194	Letter from Donald Rosen to Eugene Donnelly	10/17/03
BMWNA01192	Letter from Donald Rosen to Eugene Donnelly	12/10/03
BMWNA01188- BMWNA01191	Letter from Howard Harris to Don Rosen and accompanying documents	12/22/03
(Sent to counsel for Defendant on 7/19/04)	Letter from Stephen Moore to David Wertheim and accompanying documents	9/9/99
(Sent to counsel for Defendant on 7/19/04)	Letter from Stephen Moore to Richard Denese, Jr.	9/1/99

<b>Deposition Exhibit or Bates Stamp No.</b>	<b>Description</b>	<b>Date</b>
PR002169	Real Estate Schedule	1/13/03
	Letter from Howard Harris to Michael Menkowitz	4/7/03
PR002170- PR002180	Lease/Equipment Rental Agreement	
PR002199- PR002215	Rosen Financial Information	
PR002216- PR002232	Rosen Financial Information	